IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8190 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SM PATEL - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR CB DASTOOR for Petitioner(s) : 1,
MR DIPEN DESAI, ASST. GOVERNMENT PLEADER for Respondent(s) : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 14/02/2007

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India, the petitioner who is

retired as a Head Clerk in the year 1995 has prayed for an appropriate writ, direction and/or order directing the respondents to pay the higher pay scale after completion of 9 years after 1983.

2. It is the contention on behalf of the petitioner that the petitioner was appointed in the year 1960 as a Peon in Class – IV and thereafter after having passed necessary examinations, he was promoted to the post of Junior Clerk in the year 1970 and further promoted to the post of Senior Clerk in the year 1979. It is also his case that the petitioner got promotion as a Head Clerk in the year 1983, however, thereafter there was no further promotion and he retired in the year 1995. It is the case on behalf of the petitioner that as there was no further promotion given to the petitioner and the petitioner was kept in one pay scale only since 1983 i.e. for more than 9 years and therefore, he was entitled to the benefit of higher pay scale.

3. When a pointed question was asked to the learned counsel appearing for the petitioner that which will be the next promotional post from the post of Head Clerk, Shri Dastoor, learned advocate appearing for the petitioner has replied that it might be the post of Superintendent. It appears that the petitioner is not sure as to whether from the post of Head Clerk, next promotion is to the post or Superintendent or not. It is required to be noted that the benefit of higher pay scale is to be given after completion of 9 years considering the pay scale of the next available promotional post.

4. In the present case, the petitioner himself is not sure as to whether the next promotional post is Superintendent or not. Under the circumstances, when the petitioner is not clear which will be the next promotional post and the next higher pay scale, the petitioner is not entitled to any benefit of higher pay scale after completion of 9 years as Head Clerk. In

absence of any material on record with regard to the next higher promotional post, the prayer of the petitioner to pay the higher pay scale after completion of 9 years as Head Clerk cannot be granted. Under the circumstances, this Special Civil Application is required to be dismissed and is, accordingly, dismissed. Rule discharged. No costs.

[M.R.Shah, J.]

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